SINGAPORE REPORTS

LEONG MUN KWAI v. PUBLIC PROSECUTOR

[A.Cr.J. (Wee Chong Jin C.J.) April 4, 1973]

[Singapore — Magistrate's Appeals Nos. 127 and 127A of 1972]

Penal Code, s. 505(c) — Statements likely to incite violence — Statements made at political rally — Whether guilt a question of politics — Sentence.

The appellant was convicted of making statements with intent to incite, or which were likely to incite, any class or community of persons to commit any offence against any other class or community of persons, under section 505(c) of the Penal Code. The appellant appealed against his conviction. One of the points raised by the appellant was that his guilt or innocence was a question of politics.

Held, dismissing the appeal: (1) in this case the words relevant for the purposes of the charge, even in cold print, were words which indicated and were clearly likely to incite persons to violence and when in fact those words were uttered at a political rally during general elections, then there could be no doubt at all that they were likely to incite people to violence and not only against just one individual, the Prime Minister, but ministers, members of Parliament and community leaders who were mentioned specifically in his speech;

(2) that this offence was committed at an election rally in times of election is far from being a mitigating factor. Having regard to the contents of the offending speech and the class of persons, to which it was directed, the sentence of one month imprisonment and $3,000 fine was manifestly inadequate and should be enhanced to 4 months imprisonment and $3,000 fine.

MAGISTRATE'S CRIMINAL APPEAL.

Appellant in person.

S. Rajendran (Deputy Public Prosecutor) for the respondent.

Wee Chong Jin C.J. (delivering oral judgment): The appellant appears in person to argue this appeal. He was convicted in the lower court of an offence under the Penal Code, the codified criminal law of this country, and the particular section is section 505 paragraph (c). One of the points he raises today is that his guilt or his innocence is a question of politics. I hope the day will never come when the guilt or innocence of any one in Singapore is decided by politics. The appellant's guilt or his innocence on this charge is decided by the law of the land, by the courts and by the judges. No one, least of all I think a politician, is above the law and the law is not decided by politicians. The law is enacted by Parliament.

Now having made quite clear that the appellant's guilt or his innocence on this charge is judged only by the evidence which is produced in a court of law and by the judge who presides when that evidence is produced, the situation today so far as he is concerned is that he has been so found guilty by a court of law presided over by a judge. He is entitled to, as he has, appeal against that judgment and that is why he is here today and that is why I am hearing this appeal.

The appellant has made a lot of general statements today but none of those statements goes anywhere near to being relevant to attempt to show that the judge in the court below was wrong in finding him guilty. In fact some of his statements today are completely inaccurate and do not accord with the evidence or with the findings of the trial court. Now to just give one instance and the most material instance, the judge accepted the translation of the expert called by the appellant in relation to the Mandarin word which he used "chua" to mean "catch" and because of that the charge was amended by the judge. Another instance perhaps of his irrelevancy, but which shows the contradictions he can make even in the course of a few minutes of his argument, is that according to the tape recording this shows that he was calm and yet in the next breath he said that it was inevitable for all politicians to be emotionally aroused when making political speeches at an election rally.

Now coming down to the basics of the matter reading the words which are relevant for the purposes of the charge, even in cold print they are words which indicate and are clearly likely to incite people to violence and when in fact those words are uttered at a political rally during general elections then there can be no doubt at all that they are likely to incite people to violence and not only against just one individual, the Prime Minister, but ministers, members of Parliament, community leaders who are mentioned specifically in his speech. People who take part in politics and stand for Parliament or attempt to be elected during elections have no more or less rights than everyone else and if while making speeches at political rallies they utter words or do things which if done by an ordinary person in Singapore is an offence under the law then, merely because they are politicians, that does not entitle them to be above that particular law. In fact in the nature of human affairs politicians ought to be more responsible people because they hold themselves out as being persons who can, by becoming members of Parliament, enact laws for the people and a step further by becoming members of the government in power can then govern the people. So that irresponsibility although not an offence is not expected of a politician and obedience to the law is expected not only of the ordinary people but also of politicians.

I have studied the record and have listened to what the appellant has said this morning and I can see no reason whatsoever to interfere with his conviction by the trial court. As regards sentence it is obvious from what I have earlier said that far from being a mitigating factor that this offence was committed at an election rally in times of election, it is in my judgment a factor which ought to be taken by the court in assessing sentence against the person convicted. Having regard to the contents of the offending speech and the class of persons against whom there is this likelihood of incitement the sentence of one month imprisonment and $3,000 fine is in my opinion manifestly inadequate and I accordingly enhance the sentence and sentence the appellant to 4 months imprisonment besides the fine already imposed.

Appeal dismissed; sentence enhanced.